

SENATE, No. 1198

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED FEBRUARY 8, 2016

Sponsored by:
Senator THOMAS H. KEAN, JR.
District 21 (Morris, Somerset and Union)

SYNOPSIS

Establishes a Medical Malpractice Court.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing a Medical Malpractice Court and
2 supplementing Title 2B of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. The Legislature of the State of New Jersey finds and
8 declares that:

9 a. The resolution of disputes in cases involving medical
10 malpractice issues should be improved to assure litigants that the
11 process is an equitable and just one; and

12 b. Improving quality in these cases leads to efficient allocation
13 of judicial resources; and

14 c. A Medical Malpractice Court would provide these litigants
15 with access to the courts and efficient resolution of the disputes;
16 and

17 d. Medical Malpractice Courts should be created in such
18 locations as provided by the Rules of the Supreme Court, in order to
19 afford accessible and efficient access throughout the State of New
20 Jersey, with appropriate consideration of the geographic distribution
21 of cases coming within the jurisdiction of the Medical Malpractice
22 Court and of the efficient allocation of judicial resources; and

23 e. The appointment of persons to sit as judges of the Medical
24 Malpractice Court should take into account the knowledge of the
25 law governing all aspects of medical malpractice.

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27 2. A Medical Malpractice Court is hereby established as a court
28 of limited jurisdiction pursuant to Article VI, Section 1, paragraph 1
29 of the New Jersey Constitution.

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31 3. The Medical Malpractice Court shall be a court of record
32 and shall have a seal.

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34 4. The Medical Malpractice Court shall have jurisdiction with
35 respect to:

36 a. Any action where the parties have agreed in writing that any
37 matter arising out of the agreement would be resolved in Medical
38 Malpractice Court.

39 b. Any dispute concerning medical malpractice liability
40 insurance;

41 c. Any action for injury against a health care provider based on
42 negligence;

43 d. Any other medical malpractice dispute as provided by the
44 Rules of the Supreme Court;

45 e. Any action cognizable in the Superior Court which raises
46 issues as to which judicial expertise in matters involving medical
47 malpractice is desirable, which are not within the jurisdiction of the
48 Chancery Division of the Superior Court, and which have been
49 transferred to the Medical Malpractice Court pursuant to the Rules

1 of the Supreme Court; or

2 f. any other matters as may be provided by statute.

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4 5. a. The Medical Malpractice Court, in all causes within its
5 jurisdiction, and subject to law, may grant legal and equitable relief
6 so that all matters in controversy between the parties may be
7 completely determined.

8 b. Judgments of the Medical Malpractice Court may be
9 appealed to the Appellate Division of the Superior Court pursuant
10 to Rules of the Supreme Court.

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12 6. a. The filing fee for commencement of proceedings in the
13 Medical Malpractice Court shall be the same as proceedings in the
14 Superior Court, Law Division.

15 b. Additional fees and the reduction or waiver of fees for
16 particular classes of cases shall be established by the Rules of the
17 Supreme Court.

18 c. No proceeding shall be heard by the Medical Malpractice
19 Court unless the fees are paid or waived.

20 d. All fees shall be payable to the clerk of the Medical
21 Malpractice Court for the use of the State, and shall not be
22 refundable except as specifically provided by the Rules of the
23 Supreme Court.

24 e. Practice and procedure in the Medical Malpractice Court
25 shall be as provided by the Rules of the Supreme Court.

26 f. Decisions of the Medical Malpractice Court shall be
27 published in the manner directed by the Supreme Court.

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29 7. a. The Medical Malpractice Court shall maintain permanent
30 locations in Trenton and Newark and may hold sessions at other
31 locations throughout the State.

32 b. The State shall provide courtrooms, chambers and offices for
33 the Medical Malpractice Court at the required permanent locations
34 in Trenton and Newark and shall arrange for courtrooms, chambers
35 and offices or other appropriate facilities at other locations
36 throughout the State.

37

38 8. a. The Governor shall nominate and appoint, with the advice
39 and consent of the Senate, the judges of the Medical Malpractice
40 Court.

41 b. All appointments to such judgeships shall be made in such
42 manner that the appointees shall be, as nearly as possible, in equal
43 numbers, members of different political parties so as to constitute
44 the Medical Malpractice Court bipartisan in character.

45 The words "political parties" mean such political parties as shall
46 have cast the largest and next to the largest number of votes,
47 respectively, for members of the General Assembly at the last
48 preceding general election held for the election of all the members

1 of the General Assembly prior to the making of any such
2 appointments.

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4 9. a. The Medical Malpractice Court shall consist of no less
5 than six, nor more than 12 judges, each of whom shall exercise the
6 powers of the court, subject to the Rules of the Supreme Court.

7 b. The judges of the Medical Malpractice Court shall have been
8 admitted to the practice of law in the State for at least 10 years prior
9 to appointment and shall be chosen for their special qualifications,
10 knowledge and experience in matters involving all aspects of
11 medical malpractice.

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13 10. a. The judges of the Medical Malpractice Court shall hold
14 their offices for initial terms of seven years and until their
15 successors are appointed and qualified, and upon reappointment
16 shall hold their offices during good behavior.

17 b. The judges of the Medical Malpractice Court shall be retired
18 upon attaining the age of 70 years, upon the same terms and
19 conditions as judges of the Superior Court, and shall have the same
20 pension rights and other benefits as judges of the Superior Court.

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22 11. a. Each judge of the Medical Malpractice Court shall
23 receive annual compensation and other benefits equal to that of a
24 judge of the Superior Court and which shall not be diminished
25 during the term of appointment.

26 b. The judges of the Medical Malpractice Court shall not
27 engage in the practice of law or other gainful pursuit nor shall they
28 hold other office or position of profit under this State, any other
29 State or the United States.

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31 12. a. The judges of the Medical Malpractice Court shall be
32 subject to impeachment, and upon impeachment shall not exercise
33 judicial office until acquitted. The judges of the Medical
34 Malpractice Court shall also be subject to removal from office by
35 the Supreme Court for the causes and in the manner as is provided
36 by law for the removal of judges of the Superior Court.

37 b. Whenever the Supreme Court certifies to the Governor that a
38 judge of the Medical Malpractice Court appears to be substantially
39 unable to perform the duties of office, the Governor shall appoint a
40 commission of three persons to inquire into the circumstances.
41 Upon the recommendation of the commission, the Governor may
42 retire the judge from office, on pension, as may be provided by law.

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44 13. The Chief Justice shall assign one of the judges of the
45 Medical Malpractice Court to be the presiding judge of the Medical
46 Malpractice Court. The presiding judge shall, subject to the
47 supervision of the Chief Justice and the Administrative Director of
48 the Courts, be responsible for the administration of the Medical
49 Malpractice Court.

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1 reappointment would hold their offices during good behavior. The
2 judges would be required to retire at the age of 70 years, upon the
3 same terms and conditions as judges of the Superior Court, and
4 would have the same pension rights and other benefits as judges of
5 the Superior Court. Each judge would receive an annual
6 compensation and other benefits equal to that of a judge of the
7 Superior Court. The judges would be subject to impeachment and
8 removal from office by the Supreme Court as is provided by law.
9 The Chief Justice would assign one of the judges of the Medical
10 Malpractice Court to be the presiding judge. The presiding judge
11 would, subject to the supervision of the Chief Justice and the
12 Administrative Director of the Courts, be responsible for the
13 administration of the court.